

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHELDON P. JOHNSON,

Plaintiff,

-against-

CORRECTIONAL OFFICER CLINTON
THOMAS; C.O. CESEAR GONZALEZ;
SERGEANT T. KNIGHT; C.O. T. MOLLOY;
JOHN DOE #1; JOHN DOE #2; JOHN DOE #3;
JOHN DOE #4; LATISHA JOHNSON;
ALBERT HELMS; MICHAEL CAPRA; J.
MANUEL; KACHAPPILLY; FELIX EZEKWE;
FREDERICK PARKER; RAZIA FERDOUS,

Defendants.

24-CV-7639 (CS)

ORDER OF SERVICE

CATHY SEIBEL, United States District Judge:

Plaintiff, who currently is detained on Rikers Island, brings this action, *pro se*, under 42 U.S.C. § 1983, alleging that Defendants violated his rights when he was incarcerated at Sing Sing Correctional Facility. By order dated October 17, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.¹ As set forth in this order, the Court (1) directs service on Defendants Officer Clinton Thomas, Officer Cesar Gonzalez, Sergeant T. Knight, Officer T. Molloy, Latisha Johnson, Albert Helms, J. Manuel, Dr. Kachappilly, Dr. Felix Ezekwe, Dr. Frederick Parker, and Dr. Razia Ferdous; (2) orders the New York State Attorney General to provide the identities of, and service addresses for, John Does #1-#4; and (3) orders the Attorney General to provide a service address for former Superintendent Michael Capra.

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

DISCUSSION

A. Order of Service

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants Clinton Thomas, Cesar Gonzalez, T. Knight, T. Molloy, Latisha Johnson, Albert Helms, J. Manuel, Kachappilly, Felix Ezekwe, Frederick Parker, and Razia Ferdous through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

²Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

B. John Does #1-#4

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the complaint, Plaintiff supplies sufficient information to permit the New York State Department of Corrections and Community Supervision (“DOCCS”) to identify John Does #1-#4. It is therefore ordered that the New York State Attorney General, who is the attorney for and agent of DOCCS, must ascertain the identity and badge number of each John Doe whom Plaintiff seeks to sue here and the address where the defendant may be served. The Attorney General must provide this information to Plaintiff and the Court within sixty days of the date of this order.

Within thirty days of receiving this information, Plaintiff must file an amended complaint naming the John Doe defendant(s). The amended complaint will replace, not supplement, the original complaint. An amended complaint form that Plaintiff should complete is attached to this order. Once Plaintiff has filed an amended complaint, the Court will screen the amended complaint and, if necessary, issue an order directing the Clerk of Court to complete the USM-285 forms with the addresses for the named John Doe Defendants and deliver all documents necessary to effect service to the U.S. Marshals Service.

C. Former Superintendent Michael Capra

The Court directs the Attorney General, under *Valentin*, to provide a service address for Defendant Michael Capra.

CONCLUSION

The Clerk of Court is instructed to issue summonses for Clinton Thomas, Cesar Gonzalez, T. Knight, T. Molloy, Latisha Johnson, Albert Helms, J. Manuel, Kachappilly, Felix Ezekwe, Frederick Parker, and Razia Ferdous; complete the USM-285 form with the addresses

for these defendants; and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is directed to mail a copy of this order and the complaint to the New York State Attorney General at: Managing Attorney's Office, 28 Liberty Street, 16th Floor, New York, NY 10005.

The Clerk of Court is directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: November 25, 2024
White Plains, New York

A handwritten signature in black ink, reading "Cathy Seibel", is positioned above a horizontal line.

CATHY SEIBEL
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. Officer Clinton Thomas
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
2. Officer Cesar Gonzalez, Shield #42401
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
3. Sergeant T. Knight
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
4. Officer T. Molloy, Shield #60693
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
5. Latisha Johnson
Fishkill Correctional Facility
18 Strack Drive
Beacon, New York 12508
6. Albert Helms, Deputy Superintendent of Administration
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
7. J. Manuel, Program Committee Chairperson
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
8. Dr. Kachappilly
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
9. Dr. Felix Ezekwe
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442

10. Dr. Frederick Parker
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442
11. Dr. Razia Ferdous
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562-5442